IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 15383 of 2006(F)

PETITIONER:

A.SHERIF,
AGED 48,
S/O.ASSANAR RAWTHER,
CHEEPARA HOUSE, PATHUKUDI,
CHELAKKARA, THRISSUR.

BY ADV. SRI.P.GOPALAKRISHNA MENON
SRI.M.JITHESH MENON

RESPONDENTS:

1. **THE REGIONAL TRANSPORT AUTHORITY,**
   TRISSUR.

2. **THE SECRETARY,**
   REGIONAL TRANSPORT AUTHORITY,
   TRISSUR.

3. **THE STATE TRANSPORT APPELLATE**
   TRIBUNAL, ERNAKULAM.

BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C NO.15383/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- ROUGH SKETCH OF THE ROUTE .

EXT.P2:- COPY OF THE COVERING LETTER FILED BY THE PETITIONER DT.2.3.05.

EXT.P3:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT.19.10.05.

EXT.P4:- COPY OF THE APPEAL MEMORANDUM (WITHOUT EXHIBITS) AS MVAA NO.714/05 FILED BY THE PETITION DT.16.12.05.

EXT.P5:- COPY OF THE JUDGMENT IN MVAA NO.714/05 DT.27.3.06.

/TRUE COPY/

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.15383 OF 2006-F

Judgment

The petitioner is having a regular permit on the route Thrissur-Palakkad. The second trip of the said service operates from Thrissur to Peringottukurissi only. It comes back from Peringottukurissi to Thrissur. While so, he applied for curtailment of the portion from Thiruvilwamala to Peringottukurissi for the second trip and also for extension from Thiruvilwamala to Ottappalam. The said application was considered and allowed by the RTA, Thrissur by Ext.P3 decision by the following order : *"Heard. Variation granted without curtailment and without change in the existing timings."* The petitioner submits, the permit with extension, but without curtailment is difficult to operate as the passengers in certain sectors will have to travel unnecessarily. Secondly, it is submitted that without curtailment, the variation cannot be implemented without changing the existing timings. So, he challenged Ext.P3 before the STAT. The STAT, by Ext.P5 Judgment, held that the curtailment will affect the travelling public and therefore, it cannot be granted. So, the matter was remitted to consider grant of extension without the curtailment of the portion from Thiruvilwamala to Peringottukurissi. The order is silent whether the existing timings should be followed or not. This Writ Petition is filed, challenging Exts.P3 and P5. The petitioner submits, the Field Officer has reported that the curtailment of the

sector from Naduvathupara to Palakkad will affect the travelling public. The petitioner points out that the Motor Vehicles Inspector has proceeded on the footing that the petitioner is operating only upto Naduvathupara and therefore, the curtailment from Naduvathupara to Palakkad will affect the travelling public, is a wrong conclusion. For that trip, he is operating upto Peringottukurissi. The STAT rendered the Judgment relying on a wrong report of the Motor Vehicles Inspector. So, the petitioner prays for quashing the impugned orders and remit the matter to the RTA , as open remand.

2. I heard the learned Government Pleader also. In fact, for the trip concerned, for which the petitioner seeks extension, he does not propose to go from Thiruvilwamala to Palakkad. He wants to skip the said trip completely. But, the MVI proceeded on the footing that he is operating upto Naduvathupara and only from Thiruvilwamala to Naduvathupara is curtailed. In fact, the route from Thiruvilwamala to Peringottukurissi is curtailed. So, the report of the MVI, which is wrong, is in favour of him. Therefore, the reliance placed on it cannot be said to be a vitiating factor, rendering the impugned Judgment illegal. Both the authorities have concurrently found that it is in the interest of the travelling public not to allow the curtailment. So, this Court is not justified in interfering with the said finding. Therefore, the RTA shall consider whether any extension could be granted with change of timings, but, without curtailment. If the

petitioner does not want the extension without curtailment, he need not press the application when it comes before the RTA.

The Writ Petition is disposed of as above.

05.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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